

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

MEMORANDUM OPINION
AND ORDER
Crim. No. 09-50 (01)

Abdifatah Yusuf Isse,

Defendant.

John Docherty, Assistant United States Attorney, Counsel for Plaintiff.

Paul C. Engh, Counsel for Defendant.

This matter is before the Court on the Petition of Action on Conditions of Pretrial Release.

On April 12, 2013, the Pretrial Services Officer assigned to the Defendant determined that the Defendant had a phone that had Internet access. One of his conditions of release is no Internet access. When the phone was subsequently seized by the Pretrial Services Officer on April 16, 2013, search of the phone revealed that the Defendant had disconnected the Internet and wiped the Internet history from the phone.

The Defendant admitted to the violation, and admitted that he was aware that one of his conditions of release was no Internet access without prior approval of his Pretrial Services Officer pursuant to the Order dated February 7, 2012.

STANDARD

Pursuant to 18 U.S.C. § 3143(a), a person convicted of a crime shall be detained pending sentencing unless the court finds by clear and convincing evidence that the Defendant does not pose a flight risk or is a danger to the safety of another person or the community. Under § 3143, it is the Defendant's burden to establish by clear and convincing evidence that he does not pose a flight risk or a danger to the safety of any person or the community. United States v. Wesland, 993 F.2d 1366, 1367 (8th Cir. 1993).

Revocation of an order for release pending sentencing is governed by 18 U.S.C. § 3148(b), which provides that a court shall enter a detention order if it finds a violation of one or more conditions of release and it finds there are no conditions or combination of conditions of release that will assure the court that the Defendant does not pose a flight risk or a danger to the safety of any other person or the community if allowed to remain on release. Id.

Here, the Defendant has admitted that he violated the condition of release that he not access the Internet without prior approval of the Pretrial Services Officer. Due to the nature of this violation, previous concerns related to his online activities, and the fact that Defendant will be sentenced in two weeks for terrorism related crimes, the Court finds there are no conditions or combination of conditions that will assure the Court that the Defendant does not pose a flight risk or a danger to himself or the community.

IT IS HEREBY ORDERED that the Defendant's Release Pending Sentencing is **REVOKED**. The Defendant shall remain in the custody of the U.S. Marshal pending sentencing.

Date: May 3, 2013

s/Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court